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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,994	06/06/2005	Edwin Nun	258043US0PCT	9074

22850 7590 10/02/2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
WATKINS III, WILLIAM P	

ART UNIT	PAPER NUMBER
1794	

NOTIFICATION DATE	DELIVERY MODE
10/02/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/506,994	NUN ET AL.	
	Examiner	Art Unit	
	William P. Watkins III	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 May 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 September 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. An appeal conference was held as a result of the Appeal Brief filed 20 May 2009. The consensus of the conference was that Baumann et al. and Keller et al. both teach only particles contained within a coating solution or resin that together with the particles defines a structured surface , and not particles that are partially embedded in the surface of a sheet extrudate, with hydrophobic coating only on the exposed surfaces of the partially embedded particles, as instantly claimed. This limitation in combination the other limitations of independent claims 21, 30 and 40 define over the prior art applied in section 2 of the detailed portion of the final office action mailed 01 December 2008. The rejection of this section using Keller et al. in combination with Benoit and Baumann et al. is withdrawn as a result of the appeal conference. The obviousness type double patenting rejections given in sections 4, 5, 6, 7, 8 and 9 of the detailed portion of the final office action mailed 01 December 2008 were not discussed at conference, as requested by applicant in the Appeal Brief filed 20 May 2009, and remain pending. The finality of the office action mailed 20 May 2009 is withdrawn in view of the objection to the specification given below.

2. The disclosure is objected to because of the following informalities: applicant is requested to insert the usual section headings in the specification. In particular a "Brief Description of the Drawings" would be appreciated.

Appropriate correction is required.

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claim 21-40 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,811,856. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art that a similar final product is made.

5. Claims 21-40 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11-20 of copending Application No. 10/506,993. Although the conflicting claims are not identical,

they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art that a similar final product is made.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented

6. Claims 21-40 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of copending Application No. 10/506,238. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art that a similar final product is made.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

7. Claims 21-40 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/506,236. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art that a similar final product is made.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Claims 21-40 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 12-14 of copending Application No. 10/519,951. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art that a similar final product is made.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claims 21-40 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 10/506,604. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art that a similar final product is made.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

10. Applicant's arguments filed 20 May 2009 have been fully considered and have resulted in withdrawal of the art rejection as noted in section 1 above.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The

examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR of Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WW/ww
October 1, 2009

/William P. Watkins III/
Primary Examiner, Art Unit 1794